



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,024	07/25/2003	Michael P. Wallace	03-248 (US01)	3679

41696 7590 11/29/2006

VISTA IP LAW GROUP LLP  
12930 Saratoga Avenue  
Suite D-2  
Saratoga, CA 95070

EXAMINER
----------

JOHNSON III, HENRY M

ART UNIT	PAPER NUMBER
----------	--------------

3739

DATE MAILED: 11/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/627,024

Applicant(s)

WALLACE, MICHAEL P.

Examiner

Henry M. Johnson, III

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 9/20/06.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14, 16-44 and 46-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-10, 12-14, 16-44 and 46-58 is/are rejected.
- 7) ☒ Claim(s) 4 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 121304.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

***Response to Arguments***

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection. Guglielmi et al. teach the use of multiple devices for occlusion, including an implant for retaining a coil in place. Catheters are used for positioning of the implants as is common in the art.

The indicated allowability of claims 16 and 18 is withdrawn in view of the consideration of Guglielmi et al. Rejections based on the newly cited reference(s) follow.

***Specification***

The disclosure is objected to because of the following informalities:

On page 10, line 26, it appears a word is missing.

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-10 and 12-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,916,235 to Guglielmi et al. in view of U.S. Patent 6,036,072 to Anidjar et al. and further in view of U.S. Patent 5,814,062 to Sepetka et al. Guglielmi et al. as discussed above, teach the treatment of aneurysms by the deployment of multiple coils. Anidjar et al. and Sepetka et al. disclose catheters for the deployment of occlusion coils. Anidjar et al. disclose a means and method for implanting a vascular prosthesis wherein a guidewire (Fig. 3, # 31) is used to guide an introducing tube (first member) and introducing means (second member) to the treatment site. The introducing means (Fig. 3, # 33) is interpreted as the second member

Art Unit: 3739

and is inside the introducing tube (Fig. 3, # 39), the first member. Both have proximal and distal portions and the distal portions are slid over the guidewire (Col. 7, lines 40-44), thus establishing each have cavities or lumens. The introducing means is withdrawn (Col. 7, lines 47-48) and a catheter with the implant is pushed into the introducing tube (Col. 8, lines 8-15). With the second member between the first member and the guidewire, it is inherent it would reduce radial movement. The implant may be a stent (abstract) that inherently acts as a containment implant. Sepetka et al. teach an occlusive implant delivery assembly with a catheter (Fig. 4, #4) positioned by a guidewire that is withdrawn after positioning (Col. 8, lines 10-15), and occlusion coils delivered by the lumen of the catheter by a hollow pushrod (Fig. 4, # 26). The pushrod, having a lumen, is interpreted as a catheter or second member. Sepetka et al. teach the size of the device is dependent on the size of the vascular structure (Col. 7, lines 15-27) and specifically discloses use with vessels of from 2-5 millimeters and deep brain vascular sites (Col. 5, line 53). Anidjar et al. does not disclose removing the guidewire with the second member. Sepetka et al. teach the removal of the guidewire after positioning and prior to implants the implant device. Anidjar et al. clearly uses the second member to facilitate the positioning by collocating the distal ends. It would have been obvious to one skilled in the art to use the guidewire positioned catheters as taught by Anidjar et al. and Sepetka et al. to delivery the multiple coils of Guglielmi et al. as all are directed to the treatment of aneurysms and a skilled artisan would look to other work in the art in developing a methodology.

Claims 24-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,036,072 to Anidjar et al. in view of U.S. Patent 5,916,235 to Guglielmi et al. Anidjar et al. disclose a means and method for implanting a vascular prosthesis wherein a guidewire (Fig. 3, # 31) is used to guide an introducing tube (first member) and introducing means (second member) to the treatment site. The introducing means (Fig. 3, # 33) is interpreted as the

Art Unit: 3739

second member and is inside the introducing tube (Fig. 3, # 39), the first member. Both have proximal and distal portions and the distal portions are slid over the guidewire (Col. 7, lines 40-44), thus establishing each have cavities or lumens. The introducing means is withdrawn (Col. 7, lines 47-48) and a catheter with the implant is pushed into the introducing tube (Col. 8, lines 8-15). With the second member between the first member and the guidewire, it is inherent it would reduce radial movement. The implant may be a stent (abstract) that inherently acts as a containment implant. Anidjar et al. do not disclose the use of multiple implants. Guglielmi et al. discloses an apparatus and method for using detachable coils in the treatment of aneurysms (title) and the use of a plurality of small coils to occlude the vessel (Col. 1, lines 20-25). Guglielmi et al. further teach additional implants in the form of an expandable cage to help contain the coils in place (abstract). It would have been obvious to one skilled in the art to use the multiple coils as taught by Guglielmi et al. in the invention of Anidjar et al. to better occlude the blood vessel as suggested by Guglielmi et al. in the use of multiple coils and of retaining cages deployed by a catheter.

Claims 31, 32, 34, 35, 51, 52, 54 and 55 are based on the size of the device. The intended use of the prior art is similar rendering it obvious to a skilled artisan to size the device as appropriate. A change in the size of a prior art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955).

Claims 36-38, 44, 46 and 56-58 are based on intended use without impact on the device structure.

Regarding claims 41-43, the device of Anidjar et al. provides multiple catheters within axial lumens that are clearly capable of being advanced together or separately as required or desired by the operator.

***Allowable Subject Matter***

Art Unit: 3739

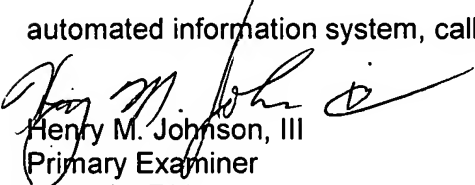
Claims 4 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Henry M. Johnson, III whose telephone number is (571) 272-4768. The examiner can normally be reached on Monday through Friday from 6:00 AM to 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Henry M. Johnson, III  
Primary Examiner  
Art Unit 3739